

NOT FOR PUBLICATION - FOR UPLOAD

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

The Chase Manhattan Bank,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 1999-033
)	
Michael Hirschensohn, Lawyers Title)	
Insurance Company, and Vincent)	
Fuller, Jr.,)	
)	
Defendants.		

ORDER

Michael Hirschensohn ["Hirschensohn" or "defendant"] is again before the Court, this time on his motions to reconsider my August 20, 2001, order confirming the sale of Parcel No. 2-4 Estate St. Joseph and Rosendahl, No. 4 Great Northside Quarter and to reconsider the Court's November 19, 2001 writ of execution on plaintiff Chase Manhattan Bank's deficiency judgment. I will deny both motions for the following reasons.

First, defendant's array of reasons to reconsider bear a striking resemblance to his original motion to annul the order confirming sale, filed on June 26, 2001. Unfortunately, "[n]either Rule 59 nor a Rule 60 motion provides the proper vehicle for rehashing old arguments." *United States v. The Schooner Windspirit*, 161 F.R.D. 321, 324 (D.V.I. 1995) (citation omitted); see also *id.* at 325 ("A motion to reconsider serves to correct manifest errors of law or fact or present newly

discovered evidence.") (citation omitted).

Secondly, defendant did not timely file his objections to the sale. As the District Court Appellate Division has noted, a party has five days from the filing of the Marshal's return of sale to object to the sale. See *Camacho v. Dodge*, 947 F. Supp. 886, 892 (D.V.I. App. Div. 1996) (interpreting 5 V.I.C. § 489(a)). Here, the Marshal filed his return on June 5th, but defendant did not file his objections until June 19th, well past the five-day time limit. The record is replete with evidence that Hirschensohn had ample notice that his property had been attached by the marshal, knew that his property had been advertised for sale before it was sold and knew the property was sold. See *id.* Thus, he was on notice that he needed to file his objections to the sale. Hirschensohn's delay in filing these objections after plaintiff filed its motion to confirm the sale, rather than the earlier filing of the marshal's return of sale, is not excusable neglect. Therefore, as Hirschensohn failed to file his objections timely, he cannot now raise this issue in his Rule 60(b) motion.

Third, Rule 62(d) of the Federal Rules of Civil Procedure requires that a supersedeas bond be posted before a court may grant a stay pending appeal, although I may waive the bond in "extraordinary circumstances, and only where alternative means of

securing the judgment creditor's interest [is] available." *Bank of Nova Scotia v. Pemberton*, 964 F. Supp. 189, 192 (D.V.I. 1997). A supersedeas bond acts as a judgment insurance policy, for even financially well-off parties are entitled to collect judgments in their favor. *See id.* Hirschensohn has neither posted a supersedeas bond nor proposed an alternative plan to secure the plaintiff's interest. *See id.* If Hirschensohn were able to pursue his appeal without posting either a supersedeas bond or alternate means to secure the plaintiff, he "would be allowed to increase the costs incurred by his creditors, without providing any reasonable means for them to ultimately recoup those costs." *Id.*

Therefore, as I can find no extraordinary circumstance on which to grant relief, and Hirschensohn has provided neither a supersedeas bond nor any other security and failed to timely file his objections to the sale, it is hereby

ORDERED that Michael Hirschensohn's motion to reconsider his motion to annul the order confirming the sale (Docket No. 147) is **DENIED**; it is further

ORDERED that Michael Hirschensohn's motion to deem conceded his motion to reconsider his motion to annul the order confirming the sale (Docket No. 150) is **DENIED** as **MOOT**; and it is further

ORDERED that Michael Hirschensohn's motion to reconsider his motion to quash or stay praecipe (Docket No. 157) is **DENIED**.

ENTERED this 28th day of December, 2001.

FOR THE COURT:

Thomas K. Moore
District Judge

ATTEST:
WILFREDO MORALES
Clerk of the Court

By: _____
Deputy Clerk

Copies to:
Hon. Geoffrey W. Barnard
Mrs. Jackson
Chad C. Messier, Esq.
Vincent Fuller, Esq.
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